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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,469	04/09/2001	Carlos A. Silva JR.	06975-125001	6757

26171 7590 10/14/2008
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EXAMINER	
SALTARELLI, DOMINIC D	
ART UNIT	PAPER NUMBER
2421	

NOTIFICATION DATE	DELIVERY MODE
10/14/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No.	Applicant(s)	
	09/828,469	SILVA ET AL.	
	Examiner	Art Unit	
	DOMINIC D. SALTARELLI	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed July 28, 2008 have been fully considered but they are not persuasive.

Applicant's arguments rest upon the assumption that the goal of a search engine created by combining Hutter, Yen, and Bournas as proposed by the examiner would logically be to identify all information items that are deemed related to the television show being watched, rather than excluding performing a search for a second category of information if information from a first category is deemed available as currently claimed (applicant's remarks, page 13). Applicant presents this argument by providing an example of how the claimed invention would work versus how the applicant views the proposed combination would operate, stating the proposed combination would look for information from two different categories regardless (for example, information for both the Redskins and the Steelers, applicants' remarks, pages 13-14).

In response, the examiner's proposed combination addresses the searching method in the very same manner as applicant's claimed invention given the relationship between first and second categories of information. For example, the context under which the examiner interpreted the first and second categories is illustrated in claim 43, where the first category is defined as information relating to a specific episode of a program and the second category is defined as information relating more broadly to the program series itself. It

was with this understanding of the 'specific to broad' relationship between the first and second categories that the examiner performed his search and proposed the prior art combination of record. The primary reference, Hutter, is focused exclusively on relaying information that qualifies as the first category, namely presenting information that is specific to a particular program (such as broadcast times or a detailed description, see Hutter, col. 3 line 66 - col. 4 line 16), displaying simply an error message if said information is not available (see Hutter. col. 3, lines 43-47). Yen is thus introduced to broaden the capabilities of Hutter to be able to search for and retrieve information much more diversely and broadly than Hutter is capable of, opening up the possibility of a second category of information to be searched. Yen, however, is a very flexible disclosure and leaves many details of how it performs searching for additional content at the discretion of the designer (see for example, Yen, col. 7 line 8 - col. 12 line 68, where Yen presents each step of associating information, filtering results, which sources are searched, and how the information is presented, are all at the sole discretion of the system's designer). If every facet of Yen was implemented, the user could be presented with a veritable deluge of information each time supplemental content was requested. Even with the filtering mechanism of the 'alert threshold' keeping too much content from annoying the user (see Yen, col. 11, lines 53-56), the system would still be burdened with excessive amounts of searching. This lead to the Bournas reference, which is provided as evidence that is was known at the time that there was "an ever increasing need for

efficiency in creating, modifying, and searching data structures." (Bournas, col. 1, lines 12-13). Improved efficiency is implemented by searching for content in a more specific to less specific fashion. Thus when Hutter and Yen are modified in view of Bournas, rather than performing an excessive and wasteful amount of searching, the system can be advantageously streamlined to limit searching to only more specific information, and only broadening the search if necessary. Applicant's example of the proposed combination doing a search for two different football teams being an example of searching two different categories is inconsistent with the originally proposed definition of what a category represented and how the second category differed from the first. The proposed combination would do a broader search for sport related information if more specific information relating to the game in progress was not available, in a manner consistent with the claimed limitations for only searching for a second category of information if nothing is available in the first category.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 30, 31, 44, 46-48, 53, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter et al. (7,020,889, of record) [Hutter] in view of Yen et al. (5,991,799, of record) [Yen] and Bournas et al. (6,061,679, of record) [Bournas].

Regarding claims 30, 48, 53, 58, and 59, Hutter discloses a method of providing content relevant to television programming (col. 1 line 65 - col. 2 line 19), the method comprising:

determining television programming being viewed by a viewer at a particular time (when a user requests supplemental information, the information retrieved is dependent upon the program being viewed, col. 2, lines 10-19);

determining, regardless of preferences of the viewer and based solely on the television programming, a first category of context information (col. 2, lines 20-26);

determining whether first context information associated with the television program and categorized in the first category of context information is available for access (col. 2, lines 20-26);

conditioned on the first context information being available for access, selecting the first context information, and

delivering the first context information to the viewer (col. 2, lines 20-26 and lines 49-58).

Hutter fails to disclose determining a second category of context information; not determining whether second context information associated with the television program and categorized in the second category is available for

access if the first context information is available for access, otherwise determining whether second context information associated with the television program and categorized in the second category of context information is available for access, and conditioned on the second context information being available for access, selecting the second context information, and delivering the second context information to the subscriber.

In an analogous art, Yen teaches a method of providing content relevant to television programming wherein the relevant content is selected from multiple categories of information (col. 8 line 57 - col. 9 line 12) based on annotation information (namely, the information is retrieved based solely on its relationship to the particular program being watched, col. 7, lines 10-40 and col. 8, lines 6-19), providing the benefit of a diverse source of programming related information that is available to a user (col. 11, lines 3-15).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method modify the method disclosed by Hutter to include determining a second category of context information, determining whether second context information associated with the television program and categorized in the second category of context information is available for access, and condition on the second context information being available for access, selected the second context information, and deliver the second context information to the subscriber, as taught by Yen, for the benefit of providing a

diverse source of programming related information to the user, allowing for a greater chance of retrieving information that is of interest to the user.

Hutter and Yen fail to disclose determining whether the second context information is available for access is conditioned on whether the first context information is not available.

In an analogous art, Bournas teaches a method for searching for desired data (col. 4, lines 45-60) based upon a predetermined hierarchy (namely, a first category is searched, and if the desired data is not found, moving up to a next level higher category, col. 7, lines 15- 36), for the benefit of a more efficient search method (col. 2, lines 52-59).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hutter and Yen to include determining whether the second context information is available for access is conditioned on whether the first context information is not available, as taught by Bournas, for the benefit of more efficiently searching for contextual information.

Regarding claim 31, Hutter, Yen and Bournas disclose the method of claim 30, wherein determining television programming being viewed comprises determining the television programming tuned to by a set top box (Yen, fig. 1, wherein the set top box is elements 110 and 120, col. 4, lines 14-22).

Regarding claim 44, Hutter, Yen, and Bournas disclose the method of claim 30, wherein conditioned on the first and second context information not bein available for access, accessing a third category of context information in the prescribed manner (Yen teaches accessing multiple sources of categories of context information, col. 8 line 20-56, and the search method taught by Bournas would systematically check each in turn until satisfactory information is found).

Regarding claim 46, Hutter, Yen, and Bournas disclose the method of claim 44, but fail to disclose conditioned on the first, second, and third context information not being available for access, selecting a default context information and delivering the default context information to the viewer.

However, such a resort of a default element is an obvious modification to make by one of ordinary skill in the art. Hutter teaches displaying a related category of information based solely upon the programming being watched (col. 2, lines 10-19), wherein the categories available are broadened by the teachings found in Yen, who teaches making multiple sources of supplement content available to a system. However, in any system there is always the possibility that there is simply no available information for a particular program. In order to avoid a system dysfunction which would otherwise result, a person of ordinary skill in the art would necessarily have a default category programmed into the system to maintain smooth operation should such a situation arise. The nature of such a default is at the discretion of the programmer, such as a display of the channel to

which the user is tuned, or a simple window which informs the user that no supplemental information is available at that time. Therefore, it would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hutter, Yen, and Bournas to include conditioned on the first, second, and third context information not being available for access, selecting a default context information and delivering the default context information to the viewer.

Regarding claim 47, Hutter, Yen, and Bournas disclose the method of claim 30, wherein at least one of the first context information and the second context information comprises links to related category content and web pages (Yen, col. 11, lines 4-15).

4. Claims 32-39, 43, 49-51, and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter, Yen, and Bournas as applied to claims 30, 48, and 53 above, and further in view of Matthews, III. (5,654,748, of record) [Matthews].

Regarding claim 32, Hutter, Yen and Bournas disclose the method of claim 30, but fail to disclose determining television programming being viewed comprises determining the television programming based upon an EPG identifier.

In an analogous art, Matthews teaches determining television programming being viewed based upon an EPG identifier (col. 5 line 65 - col. 6 line 13), for the benefit identifying programming in a simple manner.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hutter, Yen and Bournas to include determining television programming being viewed based upon an EPG identifier, as taught by Matthews, for the benefit of identifying programming in a simple manner, as other means would require special codes or information to be associated with programming ahead of time, which would be cumbersome and expensive for analog broadcasts.

Regarding claims 33-39, 49-51, and 54-56, Hutter, Yen and Bournas disclose the method of claims 30, 48, and 53, but fail to disclose the determining of a first category of context information comprises determining a category specific to the episode of a television show (which is inherently inclusive of information which relates to the name of the television show itself).

In an analogous art, Matthews teaches determining context information associated with the television programming based upon an episode of a television show (col. 7, lines 22-31), providing very specific additional information for viewers regarding viewed programming.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hutter, Yen and Bournas to include determining a category of information based upon an episode of a television show, as taught by Matthews, for the benefit of providing very specific additional information to viewers regarding individual episodes within a television series. If

the episode being watched by the user happens to be the final episode, then the category of information will be specific to the final episode of the television show.

Regarding claims 43, 52, and 57, Hutter, Yen, Bournas and Matthews disclose the method of claims 33, 49, and 54, the determining of a first category of context information comprises determining a category specific to the episode; determining whether first context information is available for access comprises determining whether context information specific to the episode is available for access (as described above), and the determining of a second category of context information comprises determining a category specific to the television show; and determining whether second context information is available for access comprises determining whether context information specific to the television show is available for access (Hutter teaches the context information is specific to the television show being displayed, and since Bournas teaches a searching method of moving from more specific to less specific categories, if information regarding a particular episode, as taught by Matthews, is not available, the searching algorithm will broaden the search to determine if less a specific category, information relating to the television show in general, is available).

5. Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter, Yen, Bournas, and Matthews as applied to claim 33 above, and further in view of Feinleib (6,637,032, of record).

Regarding claims 40-42, Hutter, Yen, Bournas, and Matthews disclose the method of claim 33, but fail to disclose the determining of a first category of context information comprises determining a category specific to the broadcaster [network station].

In an analogous art, Feinleib teaches coordinating a television broadcast with supplemental content based upon the broadcaster of the television broadcast (the MSNBC cable broadcast is supplemented with posting on the MSNBC web site, col. 1, lines 43-51), providing the benefit of broadcaster t specific supplemental content.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hutter, Yen, Bournas, and Matthews to include coordinating a television broadcast with supplemental content based upon the broadcaster of the television broadcast, as taught by Feinleib, for the benefit of providing broadcaster specific supplemental content, granting broadcasters a measure of control over what supplemental content is associated with their own broadcast programming.

6. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutter, Yen, and Bournas as applied to claim 44 above, and further in view of Matthews and Feinleib.

Regarding claim 45, Hutter, Yen, and Bournas disclose the method of claim 44, but fail to disclose the first category of information is specific to the episode, the second category is specific to the television show, and the third category is specific to the broadcaster.

However, as described above regarding claims 40 and 43, Hutter, Yen, and Bournas, when modified in view of Matthews and Feinlieb teach, the first category of information is specific to the episode, the second category is specific to the television show, and the third category is specific to the broadcaster, for the benefits described above.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/
Examiner, Art Unit 2421